

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

26 NOV 1979

Estey Corporation
Drawer E
Red Bank, New Jersey 07701

Attention: Mr. Steve Schneid

Re: CIA - RFP - 7976

Dear Mr. Schneid:

This letter responds to questions raised in your letter dated 27 September 1979 concerning the Government's Award of a contract for movable shelving to Remco Systems, Inc. This Agency has been unable to ascertain whether a copy of the aforementioned letter was ever received. Your followup letter, dated 5 October 1979 was received, but through inadvertence, no request was made for a copy of your original letter. We are also in receipt of your letter, dated 31 October 1979 to the Honorable James J. Howard, Member of Congress, 3rd District, New Jersey.

The following response is keyed to the questions posed in the 27 September 1979 letter:

Question: Why was the disassembly, moving, and reassembly of existing shelving included in the RFP (page 1 paragraph 2)?

Answer: There was no warranty on the Lektriever shelving. It is standard commercial shelving and a determination was made that any firm generally knowledgeable and skilled in the installation and removal of mechanized shelving would be able to accomplish the task. In fact, two firms furnished responsive bids for this requirement. In summary, it was considered both administratively and technically advantageous to place systems responsibility on one Contractor since both the existing Lektrievers and the new shelving are to be integrated in one records management facility.

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Question: Why is CIA buying an import at approximately 40% more money (page 1 para. 4)?

Answer: This Agency did not consciously attempt to purchase a foreign manufactured product. Indeed, the RFP contains the statutory "Buy American Act" clause at Section A, Article 5 of the General Provisions attached to the captioned RFP. The brand name "Elecompack" was used, due to a lack of satisfactory specifications and to describe the type of shelving currently installed, since system compatibility is required. The RFP's Schedule provision "BRAND NAMES" specifically stated that other equivalent equipment would be considered.

Question: Our site visit clearly indicates that you cannot use 2 fixed and 10 movable ranges. You need one fixed and 11 moveable ranges. What is Remco furnishing (page 1, para. 5)?

Answer: Remco is furnishing 2 fixed and 10 movable ranges. The definition of the Government's requirement was made by responsible officials based on the facts at their disposal. Barring fraud or arbitrary and capricious behavior on their part, there is no basis to question this definition of the requirement.

Question: Range Selector Button - we hold a patent for this feature. What is Remco furnishing (page 1, para. 6)?

Answer: Remco is furnishing a feature which meets the RFP's requirement. The RFP, Section B, Article 15 PATENT INDEMNITY, protects the Government in the event Remco is infringing on a valid patent for this feature. However, since Remco did not give

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the Government any notice that it is or intends to infringe a patent in performing the Contract, it is assumed that its solution to the Range Selector Button will not infringe or interfere with Estey Corporation's patent.

Question: Your evaluation lists price as part of the evaluation criteria. We quoted 90 days. You say Remco quoted 60 days. How can this be with 40% more money when you used 3 1/2 weeks of time to make an Award?

Answer: The instant requirement supports the initial phase of a major organizational relocation within this Agency's facility. It is essential that the delivery and installation of the shelving in question meet the project schedule; otherwise there will be severe dollar and manpower impacts. Thus, the evaluation of proposals was based on price and other factors, with delivery schedule assigned the greatest weight.

Concerning the 3 1/2 week delay in making a Contract Award, the 10 working days between 31 August and 17 September 1979 were consumed in technical evaluation of Contractor proposals and deciding whether a Best and Final Offer should be requested. A request for Best and Final Offer was made on 17 September 1979 and responses were received on 21 September 1979. An Award was made on 27 September 1979 subsequent to completing a review and analysis of the Best and Final Offers. These actions fell within the procurement leadtimes provided for this requirement.

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This Agency regrets not being in a position to award a contract to Estey Corporation since it would have permitted a large cost savings. However, based on the foregoing, price was necessarily subordinated to other essential requirements, which it is submitted were clearly set forth in the captioned RFP.

If we can be of any further assistance in this matter please contact the undersigned at your convenience.

Very truly yours,

A rectangular box with a black border, used to redact the signature of the undersigned.

Chief, Procurement Division

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